

Gannett News Service

Law clinics help low-income taxpayers fight the IRS

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BRIDGETON, N.J. -- The IRS is awarding federal grants for lawyers like Kristan Burgess to assist taxpayers in fighting back.

From a drab cement-block building housing the Cumberland County offices of South Jersey Legal Services, Burgess provides free assistance on tax-related problems to Spanish-speaking farm workers and other low-income workers.

South Jersey Legal Services is part of a nationwide group of legal services agencies, law school tax clinics and nonprofit community groups that receive \$7 million in IRS matching grants for this purpose. Taxpayers who earn up to 2.5 times the federal poverty threshold can qualify for the free assistance. For a family of four, households earning up to \$45,250 qualify. For a single person, the ceiling is \$22,150 in annual income.

Nina Olson, the Internal Revenue Service's national taxpayer advocate, lobbied for congressional approval of the grants, which began in 1998.

"We made the case that, for systematic fairness, the clinics made sense," she said.

Low-income taxpayers don't have access to lawyers and often don't have the sophistication needed to challenge the IRS when the agency makes a mistake, Olson said.

Unlike the volunteer tax clinics that help people file their returns, these clinics serve a smaller number defending themselves against IRS challenges to already filed returns.

Some clinics, such as one at Villanova Law School in a Philadelphia suburb, serve 75 to 100 clients a year.

"They are just ordinary folks who have an uphill fight in trying to understand how to deal with the Internal Revenue Service," said Leslie Book, a law professor who oversees the Villanova Law School tax clinic. Ten students handle cases each semester and earn credits toward graduation. Villanova picks the cases it represents, choosing those that are most interesting and that the clients have a good chance of winning.

In nearby southern New Jersey, Burgess isn't so choosy. She often travels to camps where migrant farm workers live during the growing season for blueberries, peaches and other crops.

Fighting the IRS is only one service Burgess offers because the IRS grants only pays part

of her salary. She helps clients with a wide variety of legal services and basic tax work, such as applying for a taxpayer identification number if they do not have a green card and are not eligible for a Social Security number.

One recent client was Claudio Perez, a 50-year-old Mexican immigrant who tried unsuccessfully for years to resolve a dispute with the IRS that eventually grew to more than half the \$14,000 he earned last year.

A native of Oaxaca, Mexico, who does not speak English, Perez realized too late that a notary who prepared his taxes in the early 1990s incorrectly listed him as eligible for the Earned Income Tax Credit, which requires dependents to live in the United States. But the IRS went further and also ruled Perez could not claim his family as dependents.

Married and a father of four, Perez was legally entitled to claim his wife and children as dependents even while they were living in Mexico. His wife and two youngest children were allowed to immigrate legally to the United States two years ago, based on a family reunification petition he filed in 1994.

Citizens of Mexico and Canada who earn U.S. income and send money home to support their dependents are allowed a tax deduction under what the IRS calls a "contiguous country exception for dependents."

Mexican and Canadian nationals also need to supply documents proving these dependents exist and proving they sent money home to them.

Interest and penalties in Perez's case increased significantly through the years, so he eventually owed \$8,000.

That's where Burgess stepped in. The Spanish-speaking lawyer took over a pile of papers with letters from IRS offices in California, Georgia, Florida and Texas that threatened Perez with legal action.

Burgess has convinced the IRS that Perez shouldn't be liable for most of the penalties and interest.

But even after a year of Burgess' letter writing, the case isn't closed.

"The last letter we got said they agreed with us, but it said I was single and not married," Perez recalled during an evening interview in Burgess's office with his lawyer serving as interpreter.

Resolving cases can be time consuming.

Josefina Rojas received help from three different Villanova law students over three semesters to prove to the IRS that her elderly parents were dependents because they were ill and unlikely to return to their native Venezuela.

Rojas, 58, began claiming her parents as dependents in the early 1990s. They initially were not eligible to be dependents because they lived in Venezuela, but they were eligible beginning in 1993 when they came to the United States to live with their daughter part of the year. They both remained dependent on Rojas until 2000, when her mother passed away.

Her father, Jose, is now 90 and still lives with Rojas.

Rojas attended a Catholic boarding school in New York during high school, received a bachelor's degree in psychology in Venezuela, and spent 14 years as a social worker in the Philadelphia area until she became disabled in 2001.

But despite her education and skills, she couldn't convince the IRS that her parents were dependents.

"I was so overwhelmed by everything they sent me," said Rojas, who is in need of a knee replacement and is being treated for depression. "The interest rate was so very high." What started as a \$5,000 IRS claim grew to \$12,000.

When she looked through the Yellow Pages and called a lawyer for help, she was referred to the Villanova law clinic, which eventually negotiated a settlement for less than \$350.